

**UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION**

EDEN ROGERS and

BRANDY WELCH,

Plaintiffs,

-against-

UNITED STATES DEPARTMENT OF HEALTH  
AND HUMAN SERVICES;

ALEX AZAR, in his official capacity as Secretary  
of the UNITED STATES DEPARTMENT OF  
HEALTH AND HUMAN SERVICES;

ADMINISTRATION FOR CHILDREN AND  
FAMILIES;

LYNN JOHNSON, in her official capacity as  
Assistant Secretary of the ADMINISTRATION  
FOR CHILDREN AND FAMILIES;

SCOTT LEKAN, in his official capacity as  
Principal Deputy Assistant Secretary of the  
ADMINISTRATION FOR CHILDREN AND  
FAMILIES;

HENRY MCMASTER, in his official capacity as  
Governor of the STATE OF SOUTH  
CAROLINA; and

MICHAEL LEACH, in his official capacity as  
State Director of the SOUTH CAROLINA  
DEPARTMENT OF SOCIAL SERVICES,

Defendants.

Case No. 6:19-cv-1567-JD

**DECLARATION OF  
PETER T. BARBUR IN SUPPORT  
OF PLAINTIFFS' MOTION TO  
COMPEL PRODUCTION OF  
AMENDED PRIVILEGE LOGS  
FROM DEFENDANTS HENRY  
MCMASTER AND MICHAEL  
LEACH**

**DECLARATION OF PETER T. BARBUR**

I, PETER T. BARBUR, declare as follows:

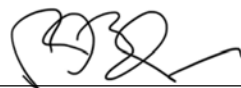
I am a Partner of the law firm Cravath, Swaine & Moore LLP and am admitted *pro hac vice* as counsel to Plaintiffs Eden Rogers and Brandy Welch in the above-captioned action.

I submit this declaration in support of Plaintiffs' Motion to Compel Production of Amended Privilege Logs from Defendants Henry McMaster and Michael Leach, dated April 12, 2021.

1. Attached hereto as **Exhibit 1** is a true and correct copy of Defendant Michael Leach's privilege log, served on December 18, 2020.
2. Attached hereto as **Exhibit 2** is a true and correct copy of Defendant Henry McMaster's privilege log, dated January 21, 2021.
3. Attached hereto as **Exhibit 3** is a true and correct copy of a letter from Peter Barbur to Miles Coleman and Kenneth Woodington, *et al.*, dated March 18, 2021.
4. Attached hereto as **Exhibit 4** is a true and correct copy of an email from Miles Coleman to Katherine Janson and Kenneth Woodington, *et al.*, dated March 23, 2021, and a true and correct copy of a letter from Miles Coleman to Peter Barbur, *et al.*, dated March 22, 2021.
5. Attached hereto as **Exhibit 5** is a true and correct copy of an email from Kenneth Woodington to Katherine Janson, *et al.*, dated April 5, 2021.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 12, 2021.

A handwritten signature in black ink, consisting of stylized, cursive letters, positioned above a horizontal line.

Peter T. Barbur

# **Exhibit 1**

*Rogers et al. v. U.S. Dept. of Health and Human Servs. et al.*

Civil Action No. 6:19-cv-01567-TMC

Defendant Michael Leach (DSS)'s supplement privilege log accompanying his Objections and Responses to Plaintiffs' First Set of Requests for Production, his Objections and Supplemental Responses to Plaintiffs' First Set of Requests for Production, and the documents produced therewith

Date	Document type	From	To	CC	Subject/File Name	Privilege
5/29/2018	Email	Thomas Limehouse	Miles Coleman, Jay Thompson, Tony Catone	Mardi Fair	Re: FYI- Faith-based proviso -	Attorney-Client; Work Product; Common Interest / Joint Defense
	Attachment				2019-05-15 Gov. McMaster to Chm. Lewis & David.pdf	Attorney-Client; Work Product; Common Interest / Joint Defense
03/13/2019	Email	Richele Taylor	Tony Catone		FW: Governor McMaster	Attorney-Client; Work Product; Common Interest / Joint Defense
	Attachment				McMaster SC Governors Office 1.18.19.pdf	Attorney-Client; Work Product; Common Interest / Joint Defense
05/16/2019	Email	Thomas Limehouse	Tony Catone	Michael Leach	FW: Letter from Gov. McMaster to Chm. Lewis & Davis	Attorney-Client; Work Product; Common Interest / Joint Defense
	Attachment				2019-05-15 Gov. McMaster to Chm. Lewis & David.pdf	Attorney-Client; Work Product; Common Interest / Joint Defense

<b>03/12/2018</b>	Email	Richele Taylor	Karen L. Wingo, Tony Catone		FW: Miracle Hill Proviso Language	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>12/05/2018</b>	E-mail	Richele Taylor	Tony Catone		FW: statistics Miracle Hill	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>12/17/2018</b>	E-mail	Richele Taylor	Tony Catone		FW: statistics Miracle Hill	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>05/01/2019</b>	Email	Thomas Limehouse	Jay T. Thompson, Miles E. Coleman, BCook, Tony Catone, Ken Woodington	Mardi Fair	RE: Foster Care Waiver Letter (SC)	Attorney-Client; Work Product; Common Interest / Joint Defense
	Attachments				2019.05.01 Lewis Davis Ltr to SC Offlcials.pdf; 2019.05.01 Lewis Davis Ltr to Miracle Hill.pdf	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>07/02/2018</b>	Email	Richele Taylor	Tony Catone		Fwd: Faith Leaders and Organizations Oppose Provision Allowing Discrimination in Foster Care	Attorney-Client; Work Product; Common Interest / Joint Defense
	Attachment				2018-06-29 Faith Leaders and Organizations Oppose Provision Allowing Discrimination in Foster Care.pdf	

<b>02/21/2018</b>	Email	Richele Taylor	Susan Alford	Karen L. Wingo, Tony Catone	Letter to Miracle Hill	Attorney-Client; Work Product; Common Interest / Joint Defense
	Attachment				Letter to Miracle Hill.pdf	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>03/12/2018</b>	Email	Richele Taylor	Tony Catone		Meeting - phone or in person	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>04/29/2019</b>	Email	Thomas Limehouse	Tony Catone	Mardi Fair	ACLU inquiry	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>04/26/2019</b>	Email	Thomas Limehouse	Tony Catone	Mardi Fair	ACLU inquiry	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>04/26/2019</b>	Email	Thomas Limehouse	Tony Catone	Mardi Fair	ACLU inquiry	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>04/29/209</b>	Email	Thomas Limehouse	Tony Catone	Mardi Fair	ACLU inquiry	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>05/11/2020</b>	Email	Thomas Limehouse	Tony Catone		Order Eden Rogers Case	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>05/08/2019</b>	Email	Thomas Limehouse	Miles E. Coleman, Jay T. Thompson, Tony Catone, B. Cook, Ken Woodington	Mardi Fair	RE: Foster Care Waiver Letter (SC)	Attorney-Client; Work Product; Common Interest / Joint Defense

<b>05/16/2019</b>	Email	Thomas Limehouse	Miles E. Coleman, Jay T. Thompson, BCook, Tony Catone, Ken Woodington	Mardi Fair	RE: Foster Care Waiver Letter (SC)	Attorney-Client; Work Product; Common Interest / Joint Defense
	Attachment				2019-05-15 Gov. McMaster to Chm. Lewis & David.pdf	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>08/12/2019</b>	Email	Thomas Limehouse	Miles E. Coleman, Mardi Fair	BCook, Jay T. Thompson, Ethan Bercot, Tony Catone, Ken Woodington	Update re: Rogers and Maddonna lawsuits	Attorney-Client; Work Product; Common Interest / Joint Defense
	Attachments				2019.8.9—Rogers v. HHS et al.—Gov. McMaster’s Reply in Supp. of Mot. to Stay.docx July 23 email w S. Dunn.pdf June 27 email w Susan Dunn.pdf	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>04/25/2018</b>	Email	Thomas Limehouse	Tony Catone	Richele Taylor	Executive Order Issue	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>05/29/2018</b>	Email	Thomas Limehouse	Becky Laffitte	Monty Todd, Michael Montgomery, Robin Owens, Tony Catone, Susan Alford,	June 1 hearing Michelle H May 29	Attorney-Client; Work Product; Common Interest / Joint Defense



				Amanda Whittle, HollyPisarik, Taron B. Davis, Butch Bowers, Jay Wolfe		
<b>05/30/2018</b>	Email	Thomas Limehouse	Becky Laffitte	Monty Todd, Michael Montgomery, Robin Owens, Tony Catone, Susan Alford, Amanda Whittle, Holly Pisarik, Taron B. Davis, Butch Bowers, Jay Wolfe, Shelley Stafford, Robin Owens	June 1 hearing Michelle H May 30	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>05/25/2018</b>	Email	Thomas Limehouse	Becky Laffitte	Monty Todd, Michael Montgomery, Robin Owens, Tony Catone, Susan Alford, Amanda Whittle, Holly Pisarik, Tron	June 1 hearing Michelle H	Attorney-Client; Work Product; Common Interest / Joint Defense

				B. Davis, Butch Bowers		
<b>05/31/2018</b>	Email	Thomas Limehouse	Becky Laffitte, Butch Bowers	Monty Todd, Michael Montgomery, Tony Catone, Amanda Whittle, Holly Pisarik	June 1 hearing Judge Gergel May 31	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>03/12/2018</b>	Email	Richele Taylor	Tony Catone		Meeting - phone or in person	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>05/09/2018</b>	Email	Richele Taylor	Tony Catone	Karen L. Wingo	MH	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>03/27/2018</b>	Email	Richele Taylor	Tony Catone, Thomas Limehouse		Michelle H. - Executive Order No. 2018-12	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>03/28/2018</b>	Email	Richele Taylor	Tony Catone, Thomas Limehouse		Michelle H. - Executive Order No. 2018-12	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>12/11/2018</b>	Email	Richele Taylor	Tony Catone		RE: statistics Miracle Hill	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>12/07/2018</b>	Email	Richele Taylor	Tony Catone		RE: statistics Miracle Hill	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>12/11/2018</b>	Email	Richele Taylor	Tony Catone		RE: statistics Miracle Hill	Attorney-Client; Work Product; Common Interest / Joint Defense

<b>12/20/2018</b>	Email	Richele Taylor	Tony Catone		RE: statistics Miracle Hill	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>12/20/2018</b>	Email	Richele Taylor	Tony Catone		RE: statistics Miracle Hill	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>05/30/2019</b>	E-mail	Thomas Limehouse	Tony Catone	Mardi Fair	Rogers v. USDHHS et al. - Filed Copy of Complaint	Attorney-Client; Work Product; Common Interest / Joint Defense
	Attachment				2019-5-30—ECF No.1—PLTs” Complaint—Rogers v. USDHHS et al..pdf	
<b>5/16/2018</b>	E-mail	Richele Taylor	Pamela Bryant		FW: Union DSS Investigator	Attorney-Client; Work Product; Common Interest / Joint Defense
	Attachments				Documents from <i>Means v. DSS</i>	

# **Exhibit 2**

*Rogers et al. v. U.S. Dept. of Health and Human Servs. et al.*

Civil Action No. 6:19-cv-01567-TMC

Defendant Henry McMaster' privilege log accompanying his Objections and Responses to Plaintiffs' First Set of Requests for Production, his Objections and Supplemental Responses to Plaintiffs' First Set of Requests for Production, and the documents produced therewith

Date	Document type	From	To	CC	Subject/File Name	Privilege
2/21/2018	Email	Richele Taylor	Brian Symmes		Draft memo on the issues	Attorney-Client; Work Product
	Attachment				Title IV.docx	Attorney-Client; Work Product
2/21/2018	Email	Richele Taylor	Susan Alford	Tony Catone; Karen Wingo	Letter to Miracle Hill	Attorney-Client; Work Product; Common Interest / Joint Defense
2/21/2018	Legal memo	Richele Taylor	Governor McMaster		2-21-18 privileged briefing.docx	Attorney-Client; Work Product
2/21/2018	Email	Karen Wingo	Richele Taylor	Tony Catone	Miracle Hill Communications	Attorney-Client; Work Product; Common Interest / Joint Defense
2/21/2018	Email	Richele Taylor	Brian Symmes		Miracle Hill Letter	Attorney-Client; Work Product
	Attachment				Miracle Hill Letter.doc	Attorney-Client; Work Product
2/22/2018	Email	Richele Taylor	Trey Walker		Letter Religious Exemption	Attorney-Client; Work Product

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	Attachment				Letter Religious Exemption.docx	Attorney-Client; Work Product
<b>2/27/2018</b>	Email	Richele Taylor	Trey Walker		Letter Religious Exemption	Attorney-Client; Work Product
	Attachment				Letter Religious Exemption.docx	Attorney-Client; Work Product
<b>2/27/2018</b>	Email	Richele Taylor	Thomas Limehouse		Letter Religious Exemption	Attorney-Client; Work Product
	Attachment				Letter Religious Exemption.docx	Attorney-Client; Work Product
<b>2/27/2018</b>	Email	Thomas Limehouse	Taylor Richele		Letter Religious Exemption- TL notes to RT draft	Attorney-Client; Work Product
	Attachment				Letter Religious Exemption- TL notes to RT draft.docx	Attorney-Client; Work Product
<b>2/27/2018</b>	Draft letter	Richele Taylor			Letter Religious Exemption – Final.doc	Attorney-Client; Work Product
<b>3/12/2018</b>	Email	Richele Taylor	Tony Catone		RE: meeting – phone or in person	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>3/13/2018</b>	Email	Richele Taylor	Mark Plowden		Executive Order – Please forward ASAP	Attorney-Client; Work Product

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	Attachment				2018-03-13 FINAL Executive Order No. 2018-12.docx	Attorney-Client; Work Product
<b>3/13/2018</b>	Email	Brian Symmes	Trey Walker	Richele Taylor; Thomas Limehouse	Re: Executive Order Summary	Attorney-Client; Work Product
<b>3/13/2018</b>	Email	Brian Symmes	Richele Taylor; Thomas Limehouse; Trey Walker		EO DRAFT Release	Attorney-Client; Work Product
<b>3/13/2018</b>	Email	Brian Symmes	Zach Pippin		FW: EO Draft Release	Attorney-Client; Work Product
<b>3/13/2018</b>	Email	Brian Symmes	Richele Taylor; Thomas Limehouse; Trey Walker		RE: EO DRAFT Release	Attorney-Client; Work Product
<b>3/13/2018</b>	Email	Richele Taylor	Leigh Lemoine		Constituent Letter	Attorney-Client; Work Product
<b>3/15/2018</b>	Email	Richele Taylor	Leigh Lemoine		FW: Constituent Letter	Attorney-Client; Work Product
<b>3/20/2018</b>	Email	Richele Taylor	Leigh Lemoine		Fwd: Constituent Letter	Attorney-Client; Work Product
<b>4/4/2018</b>	Email	Amy Hornsby	Thomas Limehouse; Richele Taylor		Miracle Hill	Attorney-Client; Work Product

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<b>4/25/2018</b>	Email	Tony Catone	Thomas Limehouse; Richele Taylor		FW: Executive Order Issue	Attorney-Client; Work Product; Common Interest / Joint Defense
	Attachment				Senator Scott faith-based Child Placing Agency Letter.pdf	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>4/25/2018</b>	Email	Richele Taylor	Trey Walker		FW: Executive Order Issue	Attorney-Client; Work Product
	Attachment				Senator Scott faith-based Child Placing Agency Letter.pdf	Attorney-Client; Work Product
<b>4/25/2018</b>	Email	Richele Taylor	Trey Walker		RE: Executive Order Issue	Attorney-Client; Work Product
<b>4/25/2018</b>	Email	Thomas Limehouse	Tony Catone	Richele Taylor	Re: Executive Order Issue	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>5/1/2018</b>	Email	Richele Taylor	Trey Walker	Thomas Limehouse	FW: FOIA Request	Attorney-Client; Work Product
<b>5/9/2018</b>	Email	Richele Taylor	Tony Catone	Karen Wingo	RE: MH	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>5/31/2018</b>	Email	Tony Catone	Thomas Limehouse		Fwd: Religious CPA issue in other states	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>7/2/2018</b>	Email	Richele Taylor	Tony Catone		Fwd: Faith Leaders and Organizations Oppose Provision Allowing	Attorney-Client; Work Product; Common Interest / Joint Defense



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					Discrimination in Foster Care	
<b>6/19/2018</b>	Email	Jay Wolfe	Thomas Limehouse; Richele Taylor		RE: Budget Proviso Legal Questions	Attorney-Client; Work Product
<b>6/29/2018</b>	Email	Jay Wolfe	Thomas Limehouse	Richele Taylor	RE: Budget Proviso Legal Questions	Attorney-Client; Work Product
<b>6/30/2018</b>	Email	Trey Walker	Richele Taylor; Jay Wolfe, Sym Singh; Brian Symmes; Mark Plowden; John Cleveland; Thomas Limehouse		Fwd: Faith Leaders and Organizations Oppose Provision Allowing Discrimination in Foster Care	Attorney-Client; Work Product
<b>7/2/2018</b>	Email	Richele Taylor	Thomas Limehouse; Jay Wolfe		RE: Budget Proviso Legal Questions	Attorney-Client; Work Product
<b>7/2/2018</b>	Email	Jay Wolfe	Thomas Limehouse; Richele Taylor		RE: Budget Proviso Legal Questions	Attorney-Client; Work Product
<b>7/4/2018</b>	Email	Richele Taylor	Trey Walker		Fwd: Faith Leaders and Organizations Oppose Provision Allowing Discrimination in Foster Care	Attorney-Client; Work Product
	Attachment				Letter to Faith Leaders.doc	Attorney-Client; Work Product

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<b>7/4/2018</b>	Email	Richele Taylor	Trey Walker		Re: Faith Leaders and Organizations Oppose Provision Allowing Discrimination in Foster Care	Attorney-Client; Work Product
<b>7/5/2018</b>	Email	Richele Taylor	Leigh Lemoine		FW: Faith Leaders and Organizations Oppose Provision Allowing Discrimination in Foster Care	Attorney-Client; Work Product
<b>10/23/2018</b>	Brian Symmes	Trey Walker; Richele Taylor			Fwd: ADL Letter to HHS	Attorney-Client; Work Product
<b>10/23/2018</b>	Trey Walker	Brian Symmes; Richele Taylor			RE: ADL Letter to HHS	Attorney-Client; Work Product
<b>10/23/2018</b>	Richele Taylor	Trey Walker; Brian Symmes			Re: ADL Letter to HHS	Attorney-Client; Work Product
<b>10/25/2018</b>	Brian Symmes	Richele Taylor; Trey Walker			FW: Gov. Henry McMaster Issues Executive Order Requiring State Agencies to Protect Religious Freedom	Attorney-Client; Work Product
<b>10/25/2018</b>	Richele Taylor	Brian Symmes; Trey Walker			Re: Gov. Henry McMaster Issues Executive Order Requiring State Agencies	Attorney-Client; Work Product

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					to Protect Religious Freedom	
<b>10/25/2018</b>	Brian Symmes	Richele Taylor; Trey Walker			Re: Gov. Henry McMaster Issues Executive Order Requiring State Agencies to Protect Religious Freedom	Attorney-Client; Work Product
<b>10/26/2018</b>	Richele Taylor	Brian Symmes; Trey Walker			FW: MHM's articulation of position and issues	Attorney-Client; Work Product
<b>10/26/2018</b>	Brian Symmes	Richele Taylor; Trey Walker			RE: MHM's articulation of position and issues	Attorney-Client; Work Product
<b>11/9/2018</b>	Richele Taylor	Richele Taylor			Christian Foster-Care Service for Christians Is Religious Liberty   National Review	Attorney-Client; Work Product
<b>12/20/2018</b>	Email	Richele Taylor	Tony Catone		RE: statistics Miracle Hill	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>12/20/2018</b>	Email	Richele Taylor	Leigh Lemoine		Draft- Updated Memo with statistics	Attorney-Client; Work Product
	Attachment				Updated Memo with statistics.docx	
<b>12/20/2018</b>	Legal memo	Richele Taylor	Governor McMaster		12-20-18 privileged briefing – updated for call w Azar.docx	Attorney-Client; Work Product

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<b>12/21/2018</b>	Email	Thomas Limehouse	Trey Walker; Mark Plowden; Richele Taylor; Brian Symmes		Letter from Miracle Hill to HHS Secretary Azar	Attorney-Client; Work Product
<b>1/18/2019</b>	Email	Leigh Lemoine	Trey Walker; Richele Taylor		FW: Governor McMaster	Attorney-Client; Work Product
<b>1/23/2019</b>	Email	Brian Symmes	Richele Taylor; Zach Pippin	Trey Walker	DRAFT: Gov. Henry McMaster Statement on U.S. Department and Health and Human Granting Religious Freedom Waiver Request	Attorney-Client; Work Product
<b>1/23/2019</b>	Email	Trey Walker	Brian Symmes	Richele Taylor; Zach Pippin	Re: DRAFT: Gov. Henry McMaster Statement on U.S. Department and Health and Human Granting Religious Freedom Waiver Request	Attorney-Client; Work Product
<b>1/23/2019</b>	Email	Richele Taylor	Tony Catone		FW: Gov. Henry McMaster Statement on U.S. Department and Health and Human Granting Religious Freedom Waiver Request	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>1/24/2019</b>	Email	Thomas Limehouse	Donovan Mallory		FOIA Doc. Review	Attorney-Client; Work Product
	Attachment				Email Searches – Compressed.zip	Attorney-Client; Work Product

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	Attachment				Potentially Responsive Docs from Constituent Services.pdf	Attorney-Client; Work Product
<b>2/16/2019</b>	Email	Megan Finnern	Trey Walker	Richele Taylor; Thomas Limehouse; Brian Symmes; Mark Plowden; Kristy Quattrone; Pamela Evette	Re: AP News: AP Exclusive: Lawsuit claims discrimination by foster agency	Attorney-Client; Work Product
<b>2/16/2019</b>	Email	Trey Walker	Megan Finnern; Richele Taylor; Thomas Limehouse; Brian Symmes; Mark Plowden; Kristy Quattrone; Pamela Evette		Re: AP News: AP Exclusive: Lawsuit claims discrimination by foster agency	Attorney-Client; Work Product
<b>2/16/2019</b>	Email	Trey Walker	Megan Finnern; Richele Taylor; Thomas Limehouse; Brian Symmes; Mark Plowden;		Re: AP News: AP Exclusive: Lawsuit claims discrimination by foster agency	Attorney-Client; Work Product

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			Kristy Quattrone; Pamela Evette			
<b>2/16/2019</b>	Email	Thomas Limehouse	Trey Walker	Megan Finnern; Richele Taylor; Thomas Limehouse; Brian Symmes; Mark Plowden; Kristy Quattrone; Pamela Evette	Re: AP News: AP Exclusive: Lawsuit claims discrimination by foster agency	Attorney-Client; Work Product
<b>3/13/2019</b>	Email	Tony Catone	Richele Taylor		Re: Governor McMaster	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>3/23/2019</b>	Email	Jay Thompson	Miles Coleman	Richele Taylor; Thomas Limehouse	[External] Re: Michigan foster-care lawsuit settled today	Attorney-Client; Work Product
<b>3/28/2019</b>	Email	Richele Taylor	Thomas Limehouse		Miracle Hill	Attorney-Client; Work Product
<b>4/8/2019</b>	Email	Thomas Limehous	Amy Hornsby	Leigh Lemoine	AUSCS FOIA Request	Attorney-Client; Work Product

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<b>4/11/2019</b>	Email	Thomas Limehouse	Miles Coleman; Jay Thompson		RE: [External] Re: AUSCS FOIA Request	Attorney-Client; Work Product
<b>4/22/2019</b>	Email	Thomas Limehouse	Tony Catone		Re: [External] Settlement in Michigan CPA case	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>4/26/2019</b>	Email	Tony Catone	Thomas Limehouse		[External] ACLU inquiry	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>4/26/2019</b>	Email	Thomas Limehouse	Trey Walker; Brian Symmes	Anita Fair	FW: [External] ACLU inquiry – PRIVILEGED & CONFIDENTIAL	Attorney-Client; Work Product
<b>5/1/2019</b>	Email	Thomas Limehouse	Jordan Marsh	Trey Walker; Anita Fair	Re: [External] RE: Foster Care Waiver Letter (SC)	Attorney-Client; Work Product
<b>5/1/2019</b>	Email	Thomas Limehouse	Jay Thompson; Miles Coleman; Bob Cook; Tony Catone; Ken Woodington	Anita Fair	Fwd: [External] RE: Foster Care Waiver Letter (SC)	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>5/1/2019</b>	Email	Jordan Marsh	Thomas Limehouse; Trey Walker	Anita Fair	Re: [External] RE: Foster Care Waiver Letter (SC)	Attorney-Client
<b>5/8/2019</b>	Email	Miles Coleman	Thomas Limehouse	Jay Thompson; Anita Fair	[External] Pre-call re: Ways & Means letter	Attorney-Client; Work Product

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<b>5/14/2019</b>	Email	Miles Coleman	Thomas Limehouse	Jay Thompson; Anita Fair	Response to Ways & Means Committee	Attorney-Client; Work Product
	Attachment				2017.9.13—MHM—memo to RT.docx	Attorney-Client; Work Product
<b>5/15/2019</b>	Draft letter	Thomas Limehouse			2019-05-15 DRAFT Gov. McMaster to Reps. Lewis & Davis - E-Signature.docx	Attorney-Client
<b>5/15/2019</b>	Draft letter	Thomas Limehouse			2019-05-15 DRAFT Gov. McMaster to Reps. Lewis & Davis - E-Signature.docx	Attorney-Client
<b>5/16/2019</b>	Email	Jordan Marsh	Thomas Limehouse		Fwd: [External] RE: Foster Care Waiver Letter (SC)	Attorney-Client
<b>5/16/2019</b>	Email	Thomas Limehouse	Jay Thompson; Miles Coleman; Bob Cook; Tony Catone; Ken Woodington	Anita Fair	RE: [External] RE: Foster Care Waiver Letter (SC)	Attorney-Client; Work Product; Common Interest / Joint Defense
<b>6/6/2019</b>	Email	Jordan Marsh	Trey Walker; Mark Plowden; Thomas Limehouse		Confidential FYI – House appropriation bill next week	Attorney-Client



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<b>6/6/2019</b>	Email	Thomas Limehouse	Jordan Marsh; Trey Walker; Mark Plowden; Anita Fair		Confidential FYI – House appropriation bill next week	Attorney-Client; Work Product
<b>6/6/2019</b>	Email	Jordan Marsh	Thomas Limehouse; Trey Walker; Mark Plowden; Anita Fair		Confidential FYI – House appropriation bill next week	Attorney-Client; Work Product
<b>6/11/2019</b>	Email	Jordan Marsh	Thomas Limehouse; Trey Walker; Mark Plowden; Anita Fair		Confidential FYI – House appropriation bill next week	Attorney-Client; Work Product
<b>8/8/2019</b>	Email	Thomas Limehouse	Thomas Limehouse		Faith-based foster care groups assist children who need help	Attorney-Client; Work Product
<b>9/19/2019</b>	Email	Thomas Limehouse	Miles Coleman; Jay Thompson	Anita Fair	Fwd: [External] Ways and Means Investigation – PRIVILEGED & CONFIDENTIAL	Attorney-Client
<b>9/25/2019</b>	Email	Miles Coleman	Thomas Limehouse	Jay Thompson; Anita Fair	[External] Handy infographic re: faith-based foster care	Attorney-Client; Work Product
<b>9/26/2019</b>	Email	Thomas Limehouse	Trey Walker; Brian Symmes		Fwd: [External] Handy infographic re: faith-based foster care	Attorney-Client; Work Product

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<b>10/2/2019</b>	Legal memo	Anita Fair			2019-10-02 ASF notes re call re U_S_ House cong inquiry.pdf	Attorney-Client
<b>11/1/2019</b>	Email	Thomas Limehouse	Miles Coleman; Jay Thompson	Anita Fair	Fwd: [External] Fyi - Trump Admin Proposes End to Obama Crackdown Against Faith-Based Adoption and Foster Care Agencies	Attorney-Client; Work Product
<b>11/1/2019</b>	Email	Miles Coleman	Thomas Limehouse; Jay Thompson	Anita Fair	RE: Fyi - Trump Admin Proposes End to Obama Crackdown Against Faith-Based Adoption and Foster Care Agencies	Attorney-Client; Work Product
<b>11/1/2019</b>	Email	Miles Coleman	Thomas Limehouse; Anita Fair	Jay Thompson	[External] FW: HHS Announcement: Proposed Rule Regarding Grants Regulation	Attorney-Client; Work Product
<b>11/21/2019</b>	Email	Trey Walker	Thomas Limehouse	Brian Symmes; Mark Plowden; Anita Fair	Re: [External] Fwd: I hope my story inspires you to action – PRIVILEGED & CONFIDENTIAL	Attorney-Client; Work Product

**Rogers et al. v. HHS et al.**  
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<b>1/29/2020</b>	Email	Thomas Limehouse	Trey Walker; Mark Plowden; Sym Singh; Brian Symmes		FW: [External] Tennessee passed foster care religious freedom bill	Attorney-Client; Work Product
<b>2/11/2020</b>	Email	Connelly Ragley	Sym Singh; Madison Hall		[External] Fwd: Faith based adoptions proviso history	Attorney-Client; Work Product; Common Interest / Joint Defense
	Attachment				Faith based adoptions proviso history.docx	Attorney-Client; Work Product; Common Interest / Joint Defense

# Exhibit 3

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TING S. CHEN  
CHRISTOPHER K. FARGO  
DAVID M. STUART  
AARON M. GRUBER  
O. KEITH HALLAM, III  
OMID H. NASAB  
DAMARIS HERNÁNDEZ  
JONATHAN J. KATZ  
DAVID L. PORTILLA  
RORY A. LERARIS  
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SHARONMOYEE GOSWAMI  
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MICHAEL L. SCHLER  
CHRISTOPHER J. KELLY

March 18, 2021

## Rogers v. HHS: Privilege Logs

Dear Counsel:

We write to address deficiencies in the privilege logs Governor McMaster and Director Leach served in connection with their respective document productions in this matter.

Federal Rule of Civil Procedure 26(b)(5)(A) provides that “[w]hen a party withholds information otherwise discoverable by claiming that the information is privileged or subject to protection as trial-preparation material, the party must . . . describe the nature of the documents, communications, or tangible things not produced or disclosed—and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim”.

To comply with these requirements, “a party seeking protection from producing documents must produce a privilege log that identifies each document withheld, information regarding the nature of the privilege/protection claimed, the name of the person making/receiving the communication, the date and place of the communication, and the document’s general subject matter.” *AVX Corp. v. Horry Land Co.*, No. 4:07-CV-3299-TLW-TER, 2010 WL 4884903, at \*3 (D.S.C. Nov. 24, 2010) (internal quotations omitted).

Governor McMaster’s and Director Leach’s privilege logs do not meet these standards. The privilege logs fail to identify which people listed in the “From”, “To” and “CC” columns are attorneys, and lack a column describing the privileged information contained in the withheld documents. We therefore request that Governor McMaster and Director Leach produce revised privilege logs remedying these

deficiencies to enable us to adequately assess their privilege claims with respect to the withheld documents.

Very truly yours,

A handwritten signature in black ink, appearing to read 'P. Barbur', with a stylized flourish extending to the right.

Peter T. Barbur

Miles E. Coleman, Esq.  
NELSON MULLINS RILEY & SCARBOROUGH, LLP  
2 W. Washington Street, 4th Floor  
Greenville, South Carolina 29601

Kenneth P. Woodington, Esq.  
DAVIDSON, WREN & DEMASTERS, PA  
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William H. Davidson, II, Esq.  
DAVIDSON, WREN & DEMASTERS, PA  
Post Office Box 8568  
Columbia, South Carolina 29202

VIA ELECTRONIC MAIL

# **Exhibit 4**

---

**From:** Miles Coleman <Miles.Coleman@nelsonmullins.com>  
**Sent:** Tuesday, March 23, 2021 12:01 AM  
**To:** Katherine Janson; Kenneth P Woodington (kwoodington@DML-LAW.com)  
**Cc:** Jay Thompson; bcook@scag.gov; w davidson@dml-law.com; lcooper@aclu.org; dmach@aclu.org; sdunn@aclusc.org; kloewy@lambdalegal.org; ccook@lambdalegal.org; nshutt@burnetteshutt.law; mburnette@burnetteshutt.law; Peter Barbur; Rebecca Schindel; Mika Madgavkar; Cristopher Ray; Miranda J. Li; Serena Candelaria  
**Subject:** RE: Rogers v. HHS -- Correspondence  
**Attachments:** 2021.3.22 -- Rogers v. HHS et al. -- LTR to P. Barbur re privilege log 4849-1641-3922 v.1.pdf

External ([miles.coleman@nelsonmullins.com](mailto:miles.coleman@nelsonmullins.com))

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Please find attached a letter in response to Peter's letter dated March 18.

Miles



---

MILES COLEMAN **PARTNER**  
[miles.coleman@nelsonmullins.com](mailto:miles.coleman@nelsonmullins.com)  
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T 864.373.2352 F 864.373.2925  
[NELSONMULLINS.COM](http://NELSONMULLINS.COM) [VCARD](#) [VIEW BIO](#)

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**From:** Katherine Janson <kjanson@cravath.com>  
**Sent:** Thursday, March 18, 2021 2:59 PM  
**To:** Miles Coleman <Miles.Coleman@nelsonmullins.com>; Kenneth P Woodington (kwoodington@DML-LAW.com) <kwoodington@DML-LAW.com>  
**Cc:** Jay Thompson <Jay.Thompson@nelsonmullins.com>; bcook@scag.gov; w davidson@dml-law.com; lcooper@aclu.org; dmach@aclu.org; sdunn@aclusc.org; kloewy@lambdalegal.org; ccook@lambdalegal.org; nshutt@burnetteshutt.law; mburnette@burnetteshutt.law; Peter Barbur <PBarbur@cravath.com>; Rebecca Schindel <rschindel@cravath.com>; Mika Madgavkar <mmadgavkar@cravath.com>; Cristopher Ray <cray@cravath.com>; Miranda J. Li <mjli@cravath.com>; Serena Candelaria <scandelaria@cravath.com>  
**Subject:** Rogers v. HHS -- Correspondence

◀External Email▶ - From: [prvs=17111162df=kjanson@cravath.com](mailto:prvs=17111162df=kjanson@cravath.com)

Miles, Ken,

Please see the attached correspondence regarding Governor McMaster's and Director Leach's privilege logs.



Thank you.

Kate Janson  
Cravath, Swaine & Moore LLP  
825 Eighth Avenue | New York, NY 10019  
T: 1 (212) 474-1989  
[kjanson@cravath.com](mailto:kjanson@cravath.com)

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nelsonmullins.com

March 22, 2021

**Via electronic mail**

Peter Barbur  
Cravath, Swaine & Moore LLP  
Worldwide Plaza  
825 Eighth Avenue  
New York, NY 10019-7475  
PBarbur@cravath.com

RE: *Rogers et al. v. U.S. Dept. of Health and Human Servs. et al.*  
Civil Action No. 6:19-cv-01567-JD (D.S.C.)  
Our File No. 059326/01501

Peter:

I write in response to your letter dated March 18, 2021 regarding the privilege log served by Governor McMaster with his production of documents. One of the questions you raised is who among the individuals listed in the log are attorneys. That information should be apparent from our prior correspondence, the Governor's discovery responses, and the pleadings, but, as a courtesy and for avoidance of any doubt they are as follows: the Governor's current and former in-house counsel are Thomas Limehouse, Esq., Anita Fair, Esq., and Richele Taylor, Esq.; his outside counsel are Miles Coleman, Esq. and Jay Thompson, Esq.; the Solicitor General, also serving as counsel to the Governor, is Bob Cook, Esq.; in-house counsel for SCDSS and its Director is Tony Catone, Esq.; and outside counsel for SCDSS and its Director are Ken Woodington, Esq. and William Davidson, Esq.

I trust the foregoing information is responsive to your inquiry. As to any remaining concerns expressed in your letter, we believe the privilege log complies with the applicable rule and we do not plan to revise it.

Very truly yours,

A handwritten signature in blue ink that reads 'Miles Coleman'.

Miles E. Coleman

CC: (by electronic mail):  
M. Malissa Burnette  
Bob Cook

March 22, 2021

Page 2

Currey Cook  
Leslie Cooper  
Susan Dunn  
Miranda J. Li  
Daniel Mach  
Mika Madgavkar  
Christopher Ray  
Nekki Shutt,  
Jay Thompson  
Ken Woodington

# Exhibit 5

---

**Subject:** RE: Rogers v. HHS -- privilege log

---

**From:** Kenneth P. Woodington <[kwoodington@DML-LAW.com](mailto:kwoodington@DML-LAW.com)>

**Sent:** Monday, April 5, 2021 2:17 PM

**To:** Katherine Janson <[kjanson@cravath.com](mailto:kjanson@cravath.com)>

**Cc:** William H. Davidson II <[w davidson@DML-LAW.com](mailto:w davidson@DML-LAW.com)>; 'Miles Coleman ([Miles.Coleman@nelsonmullins.com](mailto:Miles.Coleman@nelsonmullins.com))' <[Miles.Coleman@nelsonmullins.com](mailto:Miles.Coleman@nelsonmullins.com)>; 'Jay.Thompson@nelsonmullins.com' <[Jay.Thompson@nelsonmullins.com](mailto:Jay.Thompson@nelsonmullins.com)>; 'bcook@scag.gov' <[bcook@scag.gov](mailto:bcook@scag.gov)>; [lcooper@aclu.org](mailto:lcooper@aclu.org); [dmach@aclu.org](mailto:dmach@aclu.org); [sdunn@aclusc.org](mailto:sdunn@aclusc.org); [ccook@lambdalegal.org](mailto:ccook@lambdalegal.org); [kloewy@lambdalegal.org](mailto:kloewy@lambdalegal.org); [nshutt@burnetteshutt.law](mailto:nshutt@burnetteshutt.law); [mburnette@burnetteshutt.law](mailto:mburnette@burnetteshutt.law); Peter Barbur <[PBarbur@cravath.com](mailto:PBarbur@cravath.com)>; Rebecca Schindel <[rschindel@cravath.com](mailto:rschindel@cravath.com)>; Mika Madgavkar <[mmadgavkar@cravath.com](mailto:mmadgavkar@cravath.com)>; Cristopher Ray <[cray@cravath.com](mailto:cray@cravath.com)>; Miranda J. Li <[mjli@cravath.com](mailto:mjli@cravath.com)>; Serena Candelaria <[scandelaria@cravath.com](mailto:scandelaria@cravath.com)>

**Subject:** RE: Rogers v. HHS -- privilege log

External ([kwoodington@dml-law.com](mailto:kwoodington@dml-law.com))

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Dear counsel:

With regard to the issues raised in prior correspondence from Plaintiffs' counsel in connection with Defendant Leach's privilege logs, the response of Director Leach is the same as that made by Miles Coleman on behalf of Governor McMaster in his letter of March 22, 2021.

Mr. Coleman's letter identifies most of the individuals listed in Defendant Leach's privilege logs. If there are any individuals in Defendant Leach's privilege logs for whom additional identifying information is needed, please advise.

Sincerely,

Ken Woodington

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